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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,142	12/04/2003	Jean Claude Marcou	CWD-026746-US-P1	1320
44702	7590	11/30/2004	EXAMINER	
OSTRAGER CHONG FLAHERTY & BROITMAN PC 250 PARK AVENUE, SUITE 825 NEW YORK, NY 10177			PATEL, DHIRUBHAI R	
			ART UNIT	PAPER NUMBER
			2831	

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

42

Office Action Summary	Application No.	Applicant(s)	
	10/729,142	MARCOU ET AL.	
	Examiner	Art Unit	
	DHIRU R PATEL	2831	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-43 and 45-47 is/are allowed.
- 6) ☒ Claim(s) 44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2831

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, an upper recess and lower recess recited in claim 44 must be shown or the feature(s) canceled from the claim(s). The examiner suggest showing reference number for an upper recess and lower recess . A proposed drawing correction or corrected drawings are required in reply to the office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. No new matter should be entered.

Applicant is responsible for showing reference number for claimed invention.

2. Applicant is required to submit a proposed drawing correction in reply to this office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Art Unit: 2831

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 44 is rejected under 35 U.S.C. § 102(b) as being anticipated by D. Pimentel (3,424,332).

D. Pimentel discloses:

Regarding claim 44, a cover plate 22 (see fig 1) suitable for use with a weatherproof electrical enclosure, the cover plate comprising: an upper recess 26 disposed on a top corner (see fig 1,); a first horizontally elongated mounting hole 26 disposed on an opposite top corner (see fig1, near element 28); a lower recess (not numbered) disposed on a bottom corner diagonally opposite from the upper corner where the upper recess is disposed (see fig 1, near element 24); and a second horizontally elongated mounting hole 28 disposed on an opposite bottom corner (see fig1, near element 40).

5. Claim 44 is rejected under 35 U.S.C. § 102(b) as being anticipated by Mueller (3,965,287).

Mueller discloses:

Regarding claim 44, a cover plate 40 (see fig 3) suitable for use with a weatherproof electrical enclosure, the cover plate comprising: an upper recess 41 disposed on a top corner (see fig 3); a first horizontally elongated mounting hole disposed on an opposite top

Art Unit: 2831

corner (not numbered but see fig 3, near elements 40 and 45); a lower recess 46 disposed on a bottom corner diagonally opposite from the upper corner where the upper recess is disposed (see fig 3); and a second horizontally elongated mounting hole 47 disposed on an opposite bottom corner (see fig 3).

6. Claim 44 is rejected under 35 U.S.C. § 102(b) as being anticipated by Fisch (3,955,701).

Fisch discloses:

Regarding claim 44, a cover plate 32 (see fig 2) suitable for use with a weatherproof electrical enclosure, the cover plate comprising: an upper recess (not numbered) disposed on a top corner (see fig 2); a first horizontally elongated mounting hole 33 disposed on an opposite top corner (see fig 2); a lower recess (not numbered) disposed on a bottom corner diagonally opposite from the upper corner where the upper recess is disposed (see fig 2); and a second horizontally elongated mounting hole 33 disposed on an opposite bottom corner (see fig 2).

Allowable Subject Matter

7. Claims 1-43 and 45-47 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

The primary reason for the indication of the allowability of claims 1-43 and 45-47 are the inclusion therein, in combination as currently claimed, of the limitation of a first adjustable

Art Unit: 2831

position hinge clip for pivotably connecting the base to the cover (for claims 1-42), the hinge clip comprising a first hook disposed at a top end of the base for attaching the top end of the hinge clip to the first or second mounting rail. and a second hook disposed at a bottom end of the hinge clip for attaching the bottom end of the hinge clip to the first or second hinge mounting (for claim 43), and a first, second, third and fourth corner rib, wherein the first and second corner ribs are respectively positioned on opposite ends of the top of the first aperture rib and the third and fourth corner ribs are respectively positioned on opposite ends of the bottom of the second aperture rib and further, wherein removal of the center rib, aperture ribs, insert ribs, side ribs and corner ribs creates a second rectangular opening (for claims 45-47).

The previously listed limitation is neither disclosed nor taught by the prior art of record, alone or in combination.

Other prior art cited

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. O'Neill, Pimentel, Horsley and Hurley disclose a cover similar to applicant's claimed invention.

Note: please note that prior arts of D pimentel, Pimentel, Horsley and Hurley can be used for 102 rejection.

Art Unit: 2831

Response to Arguments

9. Applicant's arguments with respect to claim 44 have been considered but are moot in view of the new ground(s) of rejection.

Contact information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dhiru Patel whose telephone number is 571-272-1983. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on 571-272-2800 ext 31. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Dhiru Patel
Primary Examiner
Group Art Unit 2831
November 24, 2004

Dhiru R Patel
11/24/04
DHIRU R. PATEL
PRIMARY EXAMINER